

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

PRICE CAP PERFORMANCE REVIEW FOR
LOCAL EXCHANGE COMPANIES

FEDERAL STATE JOINT BOARD ON
UNIVERSAL SERVICE

LOW-VOLUME LONG DISTANCE USERS

ACCESS CHARGE REFORM

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) CC DOCKET No. 94-1
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) CC DOCKET No. 96-45
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) CC DOCKET No. 99-249
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) CC DOCKET No. 99-262

Comments of the Smithville Telephone Company, Inc.

Smithville Telephone Company, Inc. (Smithville) welcomes the filing by the Coalition for Affordable Local and Long Distance Service (CALLS) and thanks the Commission for this opportunity to file comments on the CALLS proposal. This filing ultimately asks only one question, namely does this proposal further the objectives contained in section 254, especially 254(g) and 254(k), for all subscribers, as opposed to only those served by the price cap ILECs? While the CALLS proposal does address many of the objectives contained in section 254 for the price cap ILEC customers, it needs to be expanded to provide the same benefits to all subscribers, regardless of serving ILEC. More specifically expansion will encourage true compliance with 254(g), that "the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas." Without modification the "toll" redlining that exists today will increase.

I. Is the CALLS Proposal in accordance with Section 254 (g) of the Telecommunications Act?

The CALLS proposal makes it extremely easy for the interexchange carriers to comply with the clear language contained in Section 254(g), namely that toll rates are to be geographically averaged. However this ease of compliance is limited to price cap ILECS only. Section 254(g) of The Act provides in the relevant portion:

SEC. 254. UNIVERSAL SERVICE.

(g) **INTEREXCHANGE AND INTERSTATE SERVICES.** - Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall adopt rules to require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas. Such rules shall also require that a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.

The CALLS' proposal would set a single nationwide average traffic sensitive rate of 0.55 cents/minute for the Bell and GTE price cap companies and a traffic sensitive rate of 0.65 cents/minute for the all other price cap companies. Therefore under the CALLS proposal the total switched access rates will be more geographically averaged than the total switched access rates are today for these companies. The anticipated result is that the interexchange carriers (IXCs) will lower their interstate toll rates to reflect the lower, average interstate access rates of the price cap ILECs.

However, as Smithville noted above this could be a potential problem. Since not all ILECs are price cap ILECs, this proposal does not apply to all ILECs. It is true that an overwhelming number of subscribers are served by the price cap ILECs directly benefited by this proposal. It is also true that an overwhelming number of ILECs are not price cap ILECs. Therefore the subscribers of these ILECs are not directly benefited by this proposal and may in fact be disadvantaged by this proposal.

While both the price cap and non-price cap ILECs serve rural and high cost areas, in general, the non-price cap ILECs have a much larger portion of their subscribers in rural and/or high cost areas and therefore do not have the benefit of averaging the rural and high cost areas with lower cost urban areas. Assuming that the NECA filed access rates (approximately 4.5 cents/minute) are surrogates for the access rates of non-price cap ILECs, then the CALLS switched access rates and the NECA rates differ substantially. This differential could cause the IXCs to not offer all of their toll programs to subscribers served by non-price cap ILECs. This would result in "toll" redlining, where subscribers would be denied services based solely on the identity of their ILEC. This would appear to be a direct violation of 254(g), since these ILECs serve primarily rural and/or high cost areas.

To better understand the economic incentives for an IXC, assume the current average price cap ILEC access rate is 1.5 cents/minute and the average NECA access rate is 4.5 cents/minute. The current situation today is that it is more financially

attractive for an IXC to provide service between price cap ILEC subscribers (PC to PC) calling and very unprofitable to provide service between NECA subscribers (NECA to NECA) as shown in the chart below.¹

Current Situation

Description A	Originating B	Terminating C	Total Access D=B+C	IXC Rate E	Difference F=E-D
PC to PC	1.5	1.5	3.0	7.0	4.0
PC to NECA	1.5	4.5	6.0	7.0	1.0
NECA to PC	4.5	1.5	6.0	7.0	1.0
NECA to NECA	4.5	4.5	9.0	7.0	-2.0

Assumes the average current price cap ILEC (PC) total switched access rate is 1.5 cents/minute and the average current NECA total switched rate is 4.5 cents/minute. The IXC rate assumes a 7-cent/minute plan.

From the above chart it is clear that the best margins are obtained from PC subscribers calling PC subscribers. If a NECA subscriber is involved as either the originating or terminating subscriber, the margins are significantly less, and can be negative. Clearly whenever a NECA subscriber is the originating subscriber, the margins are less favorable. One way to keep the higher margins would be to not offer certain discount plans to NECA subscribers.

There is evidence that at least some IXCs today are not willing to offer all of their calling plans to all areas of the country. We have had complaints from our customers about their inability to take advantage of calling plans that have been advertised by IXCs. We are not sure if these complaints to us have generated official complaints to the FCC.

Examples of this type of complaint are the rates offered by at least some IXCs on their web sites. On the web site, the phone number or NXX of the customer is requested. From our customer's experience, when they entered their telephone number, they receive communications from the IXC indicating that this rate is not available in their area. Usually the reason is something about the inability of the ILEC to provide billing for this new program, even though the billing for this web-offered service is done by credit card and not billed by the ILEC. Consequently there is the suspicion that the real reason is not billing, but rather financial, as outlined above. If this is more than a Smithville Telephone Company specific problem and has been experienced by others, perhaps more information will be provided in the reply cycle of the comment filing period.

¹ All numbers shown are estimates for illustrative purposes only.

With the CALLS proposal, the average current price cap ILEC total switched access rate would be reduced to 0.55 cents/minute for Bell and GTE (C-B/G) and 0.65 cents/minute for the other price cap ILECs (C-Oth). In addition it was assumed that the IXC rate would be reduced to 5 cents/minute. The previous chart would be modified as follows:

CALLS Proposal

Description A	Originating B	Terminating C	Total Access D=B+C	IXC Rate E	Difference F+E-D
C-B/G to C-B/G	0.55	0.55	1.10	5.00	3.90
C-B/G to C-Oth	0.55	0.65	1.20	5.00	3.80
C-B/G to NECA	0.55	4.50	5.05	5.00	-0.05
C-Oth to C-Oth	0.65	0.65	1.30	5.00	3.70
C-Oth to C-B/G	0.65	0.55	1.20	5.00	3.80
C-Oth to NECA	0.65	4.50	5.15	5.00	-0.15
NECA to C-B/G	4.50	0.55	5.05	5.00	-0.05
NECA to C-Oth	4.50	0.65	5.15	5.00	-0.15
NECA to NECA	4.50	4.50	9.0	5.00	-4.00

Assumes the CALLS - Bell/GTE (C-B/G) total switched access rate is 0.55 cents/minute, the CALLS - Other Price Cap ILECs (C-Oth) total switched access rate is 0.65 cents/minute and the average current NECA total switched rate is 4.5 cents/minute. The IXC rate assumes a 5.0 cent/minute plan.

It is interesting to note that the difference between the IXC rate and the total access rate is now always negative in any of the above scenarios if the IXC serves even one NECA subscriber. This could make the NECA subscribers more unattractive to serve at the lower retail rates that are anticipated from the CALLS Proposal.

II. Is the CALLS Proposal in accordance with Section 254 (k) of the Telecommunications Act?

The CALLS proposal appears to not conform to at least one regulator's interpretation of another section of the Act, namely 254(k), in particular the second sentence. Of particular concern is the end user charge and that it recovers 100% of the interstate portion of the local loop. Being an Indiana ILEC, we are familiar with the orders of the Indiana Utility Regulatory Commission (IURC). The IURC in Cause 40785 addressed this particular section as well as others. To summarize their order, the IURC reasoned that since the loop is a common and joint cost, 100% of its cost cannot be allocated to a service included in the definition of universal service. Because the end user charge has been characterized as the ability to access the network for making

and receiving interstate calls, not access itself, the IURC reasoned that this closely matches the "access to interexchange service" included in the definition of universal service. As such, per the IURC 100% of the intrastate loop costs could not be allocated to this service, i.e., end user charges. Applying this same logic to the interstate world, a 100% allocation of the common and joint loop costs to the Subscriber Line Charge (SLC) that would be included in the definition of universal service, would constitute an unreasonable allocation. Such an allocation is not allowed per section 254(k). (See, Order Indiana Utility Regulatory Commission Cause 40785, Approved October 28, 1998) Since there are only two interstate charges associated with the recovery of the interstate portion of the local loop, i.e., SLC and Carrier Common Line (CCL) charge, if the CCL recovers 0% of the local loop interstate costs, i.e., CCL rate is \$0.00, then it would appear that the SLC must be recovering 100% of the local loop interstate costs.

Section 254(k) of The Act provides in the relevant portion:

SEC. 254. UNIVERSAL SERVICE.

(k) **SUBSIDY OF COMPETITIVE SERVICES PROHIBITED.** - *** The Commission, with respect to interstate services, and the States, with respect to intrastate services, shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

Subpart B - Services Designated for Support

B - Services Designated for Support- Services Designated for Support

54.101 Supported services for rural, insular and high cost areas.

(a) *Services Designated for Support.* The following services or functionalities shall be supported by federal universal service support mechanisms:

(7) *Access to interexchange service.* "Access to interexchange service" is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network.

III. Conclusion

While Smithville has the above stated concerns, most can be alleviated by expanding the advantages of this proposal already stated by the sponsors to more of the ILECs. More specifically, the CALLS proposal should be made to comply with and advance the principles contained in section 254, rather than retreat from these principles. Two changes could accomplish this:

Firstly, apply the conformed CALLS plan to the rest of the ILEC industry. For example, all non-price cap ILECs would have a traffic sensitive rate of 0.65 cents, thus matching the rate for the CALLS - other price cap ILECs. Assuming that the current non-price cap SLC rate does not recover 100% of the interstate portion of the local loop costs, the current SLC could be maintained. The residual would be recovered in a properly sized fund equivalent to the \$650 million "access" universal service fund contained in the CALLS proposal. One way to approximate the residual portion would be to take the current booked switched access revenue less SLC revenue less CCL revenue less traffic sensitive switched revenue recalculated to reflect the 0.65 cents/minute rate. This would ensure that there would be no economic disadvantage in serving NECA ILEC subscribers and provide geographically averaged interexchange telecommunications services.

With this change the "Difference" column would be more balanced:

CALLS Proposal - Expanded

<u>Description</u> A	<u>Originating</u> B	<u>Terminating</u> C	<u>Total Access</u> D=B+C	<u>IXC Rate</u> E	<u>Difference</u> F+E-D
C-B/G to C-B/G	0.55	0.55	1.10	5.00	3.90
C-B/G to C-Oth	0.55	0.65	1.20	5.00	3.80
C-B/G to NECA	0.55	0.65	1.10	5.00	3.90
C-Oth to C-Oth	0.65	0.65	1.30	5.00	3.70
C-Oth to C-B/G	0.65	0.55	1.20	5.00	3.80
C-Oth to NECA	0.65	0.65	1.30	5.00	3.70
NECA to C-B/G	0.65	0.55	1.20	5.00	3.80
NECA to C-Oth	0.65	0.65	1.30	5.00	3.70
NECA to NECA	0.65	0.65	1.30	5.00	3.70

Assumes the CALLS - Bell/GTE (C-B/G) total switched access rate is 0.55 cents/minute, the CALLS - Other Price Cap ILECs (C-Oth) total switched access rate is 0.65 cents/minute and the average current NECA total switched rate is 0.65 cents/minute. The IXC rate assumes a 5.0 cent/minute plan.

As shown in this chart, there would be no incentive to discriminate against NECA subscribers, since the margins are the same as CALLS - Other Price Cap ILECs.

The second change that should be considered is to maintain at least some IXC assessed rate, e.g., CCL and/or PICC, so that the SLC does not recover 100% of the local loop costs assigned to interstate, thus conforming the proposal to section 254(k).

The competitive sections of the Act (251 and 252) have and continue to receive considerable attention. However, the universal service section (254) is equally important, even though at times the competitive and universal service sections might appear to be inconsistent. This appearance should not make the universal service section any less important than the competitive sections. Ultimately what the Commission must decide is: Does the adoption of the CALLS proposal as filed further both the letter and intent of section 254, in particular subsections (g) and (k), for all subscribers, i.e., those served by CALLS companies as well as by non-CALLS companies? Smithville thanks the Commission for this opportunity to file comments in this matter.

Respectfully submitted,

DOYLE & WRIGHT

A handwritten signature in black ink, appearing to read "Rick D. Doyle". The signature is stylized with a large, looping "R" and "D".

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